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VOL. LXXVIII. **Saturday, January 6, 1934.** No. 1

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Current Topics.

Conflict of Jurisdiction.

STUDENTS of English legal history are familiar with the expedients resorted to in the old days by the various courts to extend their jurisdiction; indeed, it almost seemed that the King's courts in those far-off days resembled enterprising tradesmen in their efforts to capture business. In particular, the Court of Exchequer encroached on the jurisdiction of the Court of Common Pleas by countenancing the fictitious averment that the plaintiff had recourse to the Exchequer because he was indebted to the Crown, and that by reason of the defendant's debt he was the less able to meet his liability. Similarly, the Court of Admiralty extended its jurisdiction, which properly was limited to things done upon the sea, by allowing fictitious allegations that contracts were made "*super altum mare*," going so far in one case, as to admit a claim was "for taking certain jewels *super altum mare*," whereas they were in fact taken "*apud* Stratford Bow *infra corpus comitatus Middlesexiae*"; and just as the Admiralty trespassed on the domain of the common law courts so the latter endeavoured to filch away cases which strictly belonged exclusively to the jurisdiction of the Court of Admiralty. We read that the common law courts entertained actions on contracts made abroad, e.g., at Marseilles, which town was described in the claim as "*apud* St. Mary le Bow in Chepeside." Those were the days of fictions which have always played their part in the development of legal systems. Nowadays, this old-world method of extending the jurisdiction of the different courts has become obsolete, but even yet there is occasionally a divergence of view as to the most suitable forum in which a particular case should be tried. Thus, in *Butcher Wetherly & Co. Ltd.* v. *Norman* (*The Times*, 21st December), which was an action on a policy of insurance, the solicitors for the plaintiffs, anxious to obtain a speedy trial, marked it for New Procedure; the defendant, one of the underwriters of the policy, applied to the judge in charge of the New Procedure list to allow an adjournment to enable an application to be made to the judge in charge of the Commercial List for a transfer to that list. The application having been refused by Mr. Justice MACNAGHTEN, the judge in charge of the New Procedure list, the defendant appealed to the Court of Appeal, where all the Lords Justices held that the case being of a commercial character, the defendant should have been given an opportunity to apply for its transfer to the Commercial List for trial.

The Commercial List and New Procedure.

IN the course of his judgment in *Butcher Wetherly and Co. Ltd.* v. *Norman* (*supra*), Lord Justice SCRUTTON said that the Commercial Court was established as the result of an agreement between the King's Bench judges to allocate the commercial work to judges specially conversant with that class of work. The New Procedure Rules provided that the practice of the Commercial List was not affected as regards the trial of cases in the Commercial List. The practice had, however, grown, as a matter of judicial comity, for the judge in charge of the Commercial List to inquire, when an application was made to transfer a case from the New Procedure List to the Commercial List, whether the judge in charge of the New Procedure List knew of the application. If the judge in charge of the Commercial List was told that he did not know, he declined to proceed with the matter until it had been before the judge in charge of the New Procedure List. Owing to the risk of delay in that procedure, his lordship thought that the judge in charge of the Commercial List might well modify the procedure and hear an application to transfer on the part of either party, but more particularly on the part of the defendant. His lordship pointed out that Mr. Justice MACNAGHTEN was wrong in taking the view that the plaintiff was the person who had the right to choose his tribunal, for underwriters quite justifiably desired insurance cases to be tried by judges specially conversant with insurance matters. It is obvious, from the resolution of the judges of 1894 that a commercial court be established, that cheapness and expedition were subsidiary objects to the main object of having commercial cases tried by a judge with experience of such cases. "The notice relating to such cases was not a rule made by authority, but a practice agreed upon by the judges of the Queen's Bench Division, who have the right to deal by convention among themselves with the mode of disposing of the business in their Courts," as Lord ESHER, M.R., said in *Barry* v. *Peruvian Corporation* [1896] 1 Q.B. 208, at p. 209, and there is no reason why the establishment of a New Procedure List should enable parties to deprive their opponents of the advantages of having commercial cases tried by a commercial judge.

Service of a Summons by Post.

IN the midst of the controversy aroused by the sweeping suggestions for reform made by the Hanworth Committee, the minor reform of procedure which came into force on 1st January may well have failed to reach the notice of many people. By the Service of Process (Justices) Act, 1933, which came into force on that day, it is made permissible to serve a "summons issued by a justice of the peace in England . . . by sending it by post to the defendant in a prepaid registered letter addressed to him at his last or usual place of abode." This little reform has been much needed for a long time, but it is questionable whether it is not robbed of the greater part of its usefulness by the proviso attached to s. 1 (1): "Provided that, notwithstanding that a summons has been sent by post

in manner authorised by the sub-section, service shall be deemed not to have been effected unless either (*a*) the defendant appears, either in person or by counsel or solicitor, in manner required by the summons; or (*b*) it is proved to the satisfaction of the justices that the summons came to the knowledge of the defendant." It will be very difficult in practice to prove that the summons ever came to the notice of the defendant; indeed, the rest of the proviso gives the impression that he has merely to pay no attention at all to the summons for its service to be annulled. By this means the defendant will gain more time, as he will not be compelled to appear until personally served by the police. It is submitted that this Act does not go sufficiently far; a short section should have been added making it an offence not only to ignore but to assist in ignoring postal service of a summons—someone must receive the registered letter and presumably help to suppress it. It is to be hoped that in the absence of such a section the Act will not disappoint its authors and result in delays rather than convenience and expedition.

What is a Building?

In proviso (*b*) of r. 1 of Sched. B of the Income Tax Act, 1918, it is provided that "there shall not be charged under this Schedule . . . (*b*) any warehouse or other building occupied for the purpose of carrying on a trade or profession." The contention of the respondents in *G. H. Smith* (*Inspector of Taxes*) v. *York Race Committee* (*The Times*, 21st December, 1933), was that paddocks, lawns and enclosures not covered by buildings were within that exception, so as to exempt the committee from liability for tax in respect of such property under Sched. B. The lands in question formed about eight acres of an extent of approximately eleven acres, the remainder being covered with buildings. The paddocks, garden and grass in front of the stands and enclosures comprised, approximately, five acres, the remainder being yards and roads of gravel and macadam. None of the grass was suitable for grazing, there being steps and obstacles of various kinds. Mr. Justice Finlay said that the most favourable way in which the York Race Committee's contention could be put was that "building" must cover adjuncts such as a courtyard or something of that sort necessarily used in connection with the building. The Commissioners had taken the view that the whole of the eleven acres constituted "buildings," but they failed to observe that the paddocks, lawns and enclosures could not possibly be regarded as adjuncts to the buildings. His lordship therefore allowed the appeal with costs, and remitted the case to the Commissioners to fix the assessment. The leading statement on what constitutes a "building" is that of Esher, M.R., in *Moir* v. *Williams* [1892] 1 Q.B. 264, where he said that "its ordinary and usual meaning is a block of brick or stone work, covered in by a roof," but the word is used so frequently in documents and statutes that its meaning must always depend on the circumstances in which it is used, as the enormous number of cases on the subject proves. In a covenant to repair "buildings," the word has been held to include a garden wall or "a wall enclosing or defining some portion of a field" (*Bowes* v. *Law*, L.R. 9 Eq. 641), but it is a far cry from liability under a repairing covenant in a lease to liability under Sched. B of the Income Tax Act, 1918, and Mr. Justice Finlay's decision is one that is clearly dictated by common sense.

The Rural Water Supply Question.

Among the unexpected problems which arose during the latter part of 1933 is the somewhat alarming problem of rural water supplies, and this undoubtedly will have to be tackled by Parliament during the year which we have just entered. It is of little use to blame rural district councils and other local authorities for the famine which has been experienced in many parts of the country as a result of the remarkably dry weather we have experienced during the autumn. Such a drought at that time of the year can hardly be remembered and it may well be that it will not happen again for many years to come. But one thing is quite certain, and that is that there are many districts which suffered drought during the late autumn after suffering in precisely the same way during the summer. The provision of water supplies in many out-of-the-way country districts such as these, which have had a double dose of suffering this year, is by no means a problem easy of solution. The suggestion now put forward that there should be a national water scheme by way of conduit pipes drawing supplies for rural districts from some of the main pipe lines, such, for instance, as connect the City of Birmingham with the great Welsh watershed would involve very great expense. What seems more feasible is that an effort should be made to increase the supplies from underground sources by co-operation between local authorities and big estate owners, many of whom have already sunk wells for supplying their own estates. It is really a question of finance, and that ought, in our view, to be assisted by friendly co-operation on the lines suggested. It has been suggested that in this matter we have something to learn from the Romans, whose genius for organising artificial supplies of water is still evidenced in many parts of the country.

The Involuntary Bailee.

The courts frequently have to decide which of two innocent persons has to suffer for another's criminality. The circumstances in which this problem recurred in *Elvin and Powell Limited* v. *Plummer Roddis Ltd.* (*The Times*, 21st December, 1933) were somewhat unusual. In December, 1931, a visitor to the plaintiffs' warehouse purported to buy £350 worth of coats from the plaintiffs on behalf of the defendants. These were duly delivered to the defendants, but shortly after their delivery the man who gave the order sent a telegram to the defendants in the name of the plaintiffs, stating that the goods had been dispatched in error and that a van was calling to collect. A van in charge of a confederate of the man who had given the order later called and collected the goods. Neither the plaintiffs nor the defendants saw the goods again. In an action for the value of the goods on the ground that the defendants had failed to use reasonable care as bailees, or alternatively that they had wrongfully converted the goods, the jury found that the defendants were not negligent in parting with the goods, and that there was negligence on the part of the plaintiffs in contributing to the loss. Mr. Justice Hawke held that the plaintiffs failed on the ground of conversion as well as on the ground of bailment. The duty of an involuntary bailee, as the authorities showed, was to do what was right and reasonable, and as the jury had found that the defendants had not failed to do what was right and reasonable in the circumstances, the plaintiffs must fail. The legal position of the involuntary bailee was explained by Kelly, C.B., in *Heugh* v. *London and North Western Railway Company* (1870), L.R. 5 Exch. 51, and by Cleasby, B., in *Hiort* v. *Bott* (1874), L.R. 9 Exch. 86. In the latter case it was said that the plaintiff "ought not to be allowed to complain if . . . the bailee has acted in a manner which is considered reasonable and proper." In the course of his judgment in the case under consideration Mr. Justice Hawke said that the man who gave the order obviously had a fraudulent design, and added that "there seem to be some who think he was not the inventor of it, and that by a perusal of a certain law report he might have got a hint of the method of carrying out the fraud. Whether he read the law report or not, he does not seem to have been the inventor of the fraud, but an improver." Probably the law report referred to was that of *Heugh* v. *London and North Western Railway Company* (*supra*), in which the facts were somewhat similar to that of the present case. It adds a new terror to our lives if study of the law reports is to be blamed for an increase in crime, and law students are tempted by the ease with which they might plead in defence that they "read it in the law reports," just as young offenders used to "see it on the pictures."

The Local Government Act, 1933.

On 1st January, 1934, the Local Government Act, 1933, came into operation. Its passing on 17th November, 1933, was a momentous event, as a first instalment of "a great tidying up of the law." It is the outcome of an inquiry which was set up on 8th December, 1930, and presided over by the late Lord Chelmsford, each of the three great political parties and the four great associations of local government authorities being represented on the Committee. A unanimous report was presented in 1932, and before the Bill passed through its stages in the two Houses it was considered by a Joint Select Committee of both Houses for five complete days.

There were three objects to be achieved by the new legislation. One was codification, or the reduction of the numerous cases and statutes to one homogeneous set of statutes, covering in a systematic fashion the whole field of local government law. The second was that of producing uniformity, or the reduction of the various codes applying to different local authorities to a single uniform code. This has been one of the most important objects of local government legislation for some years past. Lastly, the new statutes were to remedy existing defects in the previously existing law by means of specific amendments.

The scope of the present Act is indicated by the fact that about 900 sections and thirty-three schedules of other statutes are repealed, as well as forty-seven entire Acts. In its 306 sections and eleven schedules it deals with the Constitutions and Elections of Local Government Authorities (Pt. I), Members and Meetings (Pt. II), Committees (Pt. III), Officers (Pt. IV), Offices (Pt. V), Alteration of Areas (Pt. VI), Acquisitions and Dealings in Land (Pt. VII), Expenses (Pt. VIII), Borrowing (Pt. IX), Accounts and Audit (Pt. X), Local Financial Returns (Pt. XI), Bye-laws (Pt. XII), Local or Personal Bills (Pt. XIII), Freemen (Pt. XIV), and several miscellaneous matters such as contracts, legal proceedings, transfers of powers, inspection of documents, etc. (Pt. XV).

One of the most interesting of the numerous amendments to the law contained in the Act is that which deals (*inter alia*) with the legal position disclosed by *Lapish* v. *Braithwaite* [1926] A.C. 275; 70 Sol. J. 365. One of the difficulties was that there were two separate but similar codes in existence with regard to disqualification from membership of local authorities arising out of interests in contracts with these authorities. One set of rules, contained in s. 12 of the Municipal Corporations Act, 1882, dealt with borough councils, substantially the same rules applying to county councils by virtue of the Local Government Act, 1888, while a slightly different set of rules was applied to district and parish councils. The Municipal Corporations Act, 1882, s. 12, provided for the disqualification of a person from being elected or being a member of a borough council if he had directly or indirectly by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the council. Section 22 (3) of the same Act provided that a member of a borough council was not entitled to vote or take part in the discussion of any matter before the council, or a committee thereof, in which he had directly or indirectly, by himself or his partner, any pecuniary interest. The decision in *Lapish* v. *Braithwaite*, *supra*, was that where a shareholder and managing director of companies having current contracts with the borough council is paid by salary and not by commission, he is not disqualified from being an alderman under ss. 12 and 14 of the Municipal Corporations Act, 1882, as a person who has a share or interest in any contract with the council. Viscount Cave, L.C., in delivering the judgment of the House of Lords, suggested that "the legislature might well consider whether the section should not be strengthened either by extending the disqualification to persons who hold a substantial proportion of the shares in a contracting company, or in some other way."

The disqualification in s. 76 of the new Act extends only to voting and discussion, and not to membership. Disclosure must be made either at the meeting at which the contract in question is to be discussed, or by a general notice in writing given to the clerk of the authority, who is to keep particulars of all disclosures of interests in a book, which is to be open to the inspection of members at all reasonable hours. In the case of married persons living together, the interest of one spouse is the interest of the other. The disclosure extends to all pecuniary interests, direct or indirect, except the ordinary participation in public services like gas, electricity or water. A partnership interest or membership of a public company together with the beneficial interest in stocks and shares is deemed to be an indirect pecuniary interest. Where, however, either because of the disabling of a large number of members or for any other reason the business of the council is impeded, the county council may remove the disability in the case of a parish council, and the Minister of Health may remove it in the case of any other local authority. Standing orders of a local authority may provide for the exclusion of interested members from meetings at which the matter in which they are interested is to be discussed. These provisions are made to apply with suitable modification to members of committees, sub-committees and joint committees by s. 95.

Another grave defect in the law was revealed in *Brown* v. *Dagenham Urban District Council* [1929] 1 K.B. 737, in which McCardie, J., held that, whatever the contract between officers appointed under the Public Health Act, 1875, by a local authority, and whatever provisions as to notice may have been arranged, such officers were removable by the local authority "at their pleasure," as provided by s. 189 of the Public Health Act, 1875. His lordship remarked that there was no right of appeal by a dismissed person, nor could he bring any action to clear his character if dismissed ignominiously for alleged misconduct. This state of the law is now amended by s. 121, which enacts that provisions in such contracts for termination by such reasonable notice as is agreed shall be held valid as from the commencement of the Act, notwithstanding any provisions in this Act or any other enactment that a person shall hold office only during the pleasure of a local authority. Moreover, such a provision in any Act is not to affect any right or obligation of the officer to retire on attaining any specified age or on the happening of any specified event in pursuance of any enactment or scheme relating to superannuation allowances which is applicable to the officer.

A lengthy and complicated provision with regard to the contracts of urban authorities is completely done away with by the repeal of the well-known s. 174 of the Public Health Act, 1875. Under that section contracts exceeding £50 in value of boroughs and urban district councils were to be under seal, and had to specify materials, price, time of performance and a penalty. In the case of contracts of the value of £100 or upwards, public notice had to be given, tenders had to be invited and security to be taken for the due performance of the contracts. The provisions contained in s. 265 of the 1933 Act now apply, and all contracts made by any local authority must be made in accordance with such local authority's standing orders. There is also a somewhat obscurely worded provision with regard to contracts for the supply of goods or materials or for the execution of works, to the effect that the standing orders shall require that "except as otherwise provided by or under the standing orders, notice of the intention of the authority or committee to enter into the contract shall be published and tenders invited," and shall regulate the manner in which such notice shall be published and tenders invited. Contracts otherwise valid are to have full effect even though the standing orders have not been complied with.

The above are only a few and the most important of the multifarious amendments and reconstructions of the law

brought about by the Local Government Act, 1933. Minor defects in such a tremendous compilation are bound to be discovered from time to time, but taken in its entirety the Act constitutes the biggest contribution of the century to the twin tasks of codification and production of uniformity in the vast field of local government law.

Distributable Shares of Missing Beneficiaries.

[CONTRIBUTED.]

I CONTRIBUTED an article entitled "Distributable Shares of Missing Beneficiaries" in your issue of 28th October (77 SOL. J. 756), in which I recommended that where beneficiaries had not been heard of for seven years, trustees and personal representatives could safely rely on the provisions contained in s. 27 of the Trustee Act, 1925, for the purpose of distributing the estate without having to make an application to the court.

In your issue of 4th November, in an article entitled "A Conveyancer's Diary," I was openly challenged as to the correctness of my views on this subject, and my critic seemed to think that as the trustee or personal representative had notice that there was a claimant, the section could not possibly apply, and further stated he could not understand how any counsel could advise personal representatives or trustees to rely upon s. 27 of the Trustee Act, 1925, except so far as *creditors* were concerned, and even then with hesitation. As I felt that this matter was of some importance to many of your readers, I replied to my critic in an article which appeared in your issue of the 2nd December, in which I pointed out that where a person had not been heard of for seven years there was a presumption of death, and that under such circumstances the persons administering the estate ceased to have notice of such claims, and referred your readers to *Newton* v. *Sherry*, 1 C.P.D., p. 246, where the provisions contained in Lord St. Leonard's Act, repealed by the Trustee Act, 1925, were held to apply to a "missing beneficiary" who had not been heard of for some years. In the issue of 9th December, 1933, my critic once more refers to my article and now no longer suggests that the section does not apply to beneficiaries as stated by him previously, but suggests that the section cannot safely be relied on, as trustees and personal representatives cannot know with any degree of certainty what advertisements should be issued for claimants under the said section in a case which seems to be "a special case" within the section.

He then asks whether an advertisement in *The Gazette* by the personal representatives of the father would be sufficient in the following case: "A girl of seventeen quarrels with her family because she wishes to go on the stage. She leaves home informing them that she is going to Hollywood to engage in film work, and will be known by a stage name, and further that she does not intend to communicate with them. After seven years the father dies intestate."

I fail to see how there can be any difficulty in deciding what advertisements should be given in the case suggested by my learned critic, and the dictum of Brett, J., in *Newton* v. *Sherry*, seems to be a complete answer to his question, who states: "Save in some exceptional cases, it is usual to confine these notices to the *London Gazette* and some English newspapers. If, however, there be any reasonable ground for supposing that there is a claimant residing in a foreign country or in one of our colonies, the notice should be inserted there also."

My learned critic further suggests that there may be a difficulty in obtaining satisfactory evidence from the relations that the missing beneficiary has not been heard of for a period of seven years and upwards. Again I fail to see his difficulty, and submit that if the trustee or personal representative has made such investigations as a prudent man would do under the circumstances, he would, following the principle laid down in *Newton* v. *Sherry*, be amply protected by the provisions contained in s. 27 of the Trustee Act, 1925, which were introduced for the express purpose of saving the expense of making unnecessary applications to the court, and not for the purpose of laying traps for the unwary as suggested by my learned critic.

[The above is shortly referred to by the learned author of "A Conveyancer's Diary," at p. 7 of this issue.—ED., *Sol. J.*]

Rights of Way.

ON the 1st January, 1934, the Rights of Way Act, 1932, came into force. This Act achieves a great simplification of the law relating to bridleways and footpaths, which are being used more and more as the "hiking" movement grows. The Act does not alter the old principle that all highways, including public footpaths, which were not created by statutory authority must be deemed to have been created by dedication to the public. But it does provide in England a simpler rule for ascertaining whether there has been dedication. Dedication has usually come about by gradual acquiescence by the person in possession of land in the use by the public of a "short cut" over his land. No definite period of use has been required, and in consequence it has been necessary to call the oldest inhabitants to testify that the way had been used by the public throughout living memory and without interruption. An example of highway litigation of this kind was *Attorney-General and Others* v. *Mallock*, 48 T.L.R. 107, in which such evidence was called. Further complications have arisen where the person in possession of an estate was the tenant for life. The position has become extremely confused and, for want of a simple rule, judicial opinion has varied. Under the new Act actual enjoyment by the public as of right and without interruption for twenty years is enough for the way to be deemed to have been dedicated as a highway, unless there is enough evidence of no intention to dedicate or there has been no person in possession during those twenty years who could dedicate. Enjoyment for forty years is conclusive evidence of dedication, whether or not there has been a person in possession capable of dedicating, in the absence of evidence of a contrary intention. The owner or reversioner may put up a notice inconsistent with the dedication of a way as a highway over land (which includes land covered with water). Such a notice is evidence enough to negative the intention to dedicate, and if it is torn down or defaced the owner may give a similar notice to the local authority. Owners may also deposit with the local authority maps and statements showing what ways they admit to have been dedicated and may make declarations every six years that no additional ways (other than as set out in the declarations) have been dedicated. The Act does not affect proceedings begun before the 1st January, 1934, or prevent dedication being presumed *aliunde* than from proof of twenty years' use. Courts are directed to look at maps, plans, histories and other relevant documents when considering questions of dedication and to give such documents their proper weight. The rights of reversioners to life tenancies to maintain actions for damages for trespass or for injunctions preventing the acquisition of rights of way are expressly saved. With a view to comparison with the maps deposited by landowners, local authorities throughout the country are preparing surveys of all the reputed public paths in their areas. It is estimated that there are at least 300,000 of these in England and Wales, so that the new Act should confer a real benefit upon those who desire to know their rights in order to be able to enjoy the beauties of the country without trespassing or causing annoyance to landowners.

The Business of Courts Committee

SECOND INTERIM REPORT.

We have before us the "Second Interim Report of the Business of Courts Committee," and we may say at the outset that the committee has, as was to be expected, presented a lucid and valuable report of its proceedings. We should have wished to have been more fully informed of the evidence upon which the committee formed the conclusions upon which it arrived, and could have dispensed with the frequent references to the earlier committees however distinguished in personnel and thorough in their investigations.

It is hardly possible at once to deal in any detail with the recommendations now made, but there are at least three of the most important of them which will be of interest to the profession and call for comment. The first is the alteration in the constitution of the Court of Appeal by revising what the committee consider to be the "wholesome characteristic of the common law procedure before the Judicature Acts, viz., that the same judges did appellate work and also sat as judges of first instance." We venture to doubt whether the practice was "wholesome." Our forbears in the law evidently thought otherwise and, so far as we can judge, they were right. For example, it may prove to be a retrograde step so far as appeals from the Chancery Division are concerned. It has been said over and over again by judges in that division that "for the sake of uniformity" the decision of one judge on questions arising under what we are accustomed to call "the new Property Acts," should be followed (even if not agreed with) by others of co-ordinate jurisdiction. Is there then no prospect of a review of decisions of far-reaching importance under those statutes? On that ground alone we deprecate the committee's recommendation. There are other reasons which we might urge and will take an opportunity of doing so. It is, at any rate, rather ill-timed to interfere with the prospect of preferment in the judicial hierarchy when there is little enough inducement for those in busy practice at the Bar to accept an appointment to the Bench. The next most important proposal is to abolish the Probate, Divorce and Admiralty Division, transferring to the Chancery Division the probate work and to the King's Bench Division the divorce and admiralty business. There has been some controversy in the press on this suggestion which, on the whole, we think is a wise one. There seems to be no reason why judges should not be nominated to deal with the special classes of cases according to the experience which they have had at the Bar. It at least seems probable that by assimilating the procedure with that followed in the other divisions of the High Court some of the vexatious and archaic forms may be brought up to date with a saving both in time and expense. Judges in the Chancery Division are competent and experienced in considering cases involving questions of capacity, misrepresentation, fraud and undue influence, and should prove well qualified to try probate actions, where similar questions arise, and we see no reason why any judge of the King's Bench Division cannot be relied upon to try a divorce case with or without a jury. The admiralty jurisdiction doubtless calls for expert administration, but we do not know that the President of the Probate, Divorce and Admiralty Division has ever been selected for that high office by reason of his knowledge of shipping lore. With the proposal for the abolition of the Divisional Court we are in complete agreement. Speaking generally, we think that the committee has done its work very well, but should have been more satisfied if we could have been informed of what expert evidence it had taken with regard to some of the matters upon which it has expressed an opinion. Our judicial system should not lightly be tampered with, although we by no means say that it is perfect or that we should not advance with the times.

Mr. John Henry Franckeiss, solicitor, of Southsea, left £113,856, with net personalty £80,580.

Company Law and Practice.

The Statutory Provisions Relating to Accounts.

As a great number of companies make a practice of completing their financial year on the 31st December, to which date the accounts are made up, I propose this week to consider very briefly the main provisions of the Act with regard to the keeping of accounts and the preparation of balance sheets. Having regard to the provisions of ss. 122 and 274, which impose severe penalties on the director of a company who fails to take reasonable steps to ensure that the company's accounts comply with the requirements of those sections, the subject is one of the first importance.

May I first of all remind practitioners that the former Companies Acts did not deal with the accounts and balance sheets of the company at all, although they did deal with the question of audit. It will be remembered that the earlier Acts treated the matter as one to be dealt with by the articles. Table A of the 1908 Act by cl. 103 required the directors to keep true accounts of (1) the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and (2) of the assets and liabilities of the company. Whether Table A was adopted or not the articles of the company nearly always included provisions relating to the keeping of proper accounts. The provisions of cl. 103 of the old Table A have now been incorporated in s. 122 of the new Act, with the addition of the necessity of keeping accounts of "all sales and purchases of goods by the company." The position, therefore, now is that the company must keep proper accounts of these items whether the article contains provisions for accounts or not.

There is a further provision that the books of account must be kept at the registered office of the company or at such other place as the directors think fit, and must at all times be open to inspection by the directors. This latter right of inspection by the directors is a useful provision to remember when one happens to be dealing with that unfortunate individual, the minority director, whose troubles so often come before those who advise on company matters.

The penalty for non-compliance with the provisions of the section already referred to is a severe one. A director may be liable to a fine not exceeding £200, or, if the court is satisfied that he has been guilty of wilful default, to imprisonment for a term not exceeding six months. But not content with the penalty imposed by s. 122, the Act, by s. 274, imposes a still severer penalty where on a winding up it is found that proper books of account have not been kept throughout the period of two years immediately preceding the winding up. Section 274 is also new, although its provisions are similar to those of s. 138 of the Bankruptcy Act, 1914. The books to be kept under this section are such books or accounts as are necessary to exhibit and explain the transactions and financial position of the company's trade or business. They include books containing entries from day to day of all cash received and paid. Any director, manager, or other officer of the company knowingly guilty of default under this section is liable on conviction on indictment to one year's imprisonment.

We have already noticed that a director is entitled to inspection of the books of the company, and, indeed, to all the company's documents. At the expense of a digression from our main theme, it will not be out of place to consider the position of a shareholder who wishes to inspect the books. Again, this is a matter usually left to the articles. Clause 99 of Table A provides that the directors shall from time to time determine whether, and to what extent, and, generally speaking, in what manner, the accounts and books of the company shall be open to the inspection of members, not being directors. The article goes on to provide that no member, not being a director, shall have any right of inspection, except as conferred by statute or by the company in general meeting.

If there is no such article as the above, it is not clear what right (if any) a member has to inspection of the books. An attempt has been made to draw an analogy between members of a company and beneficiaries under a trust. It is clear that beneficiaries are entitled to inspect books relating to the trust accounts kept by the trustees, the general rule being that the trustee must give information to his *cestui que* trust as to the investment of the trust estate: see per Chitty, J., in *In re Tillott* [1892] 1 Ch. 86. In a case where shareholders brought an action against directors, the plaintiffs were held entitled—by the above analogy—to inspection of communications relating to the subject-matter of the action which had passed between the company and its professional advisers: *Gourand* v. *Edison Bell* [1888] W.N. 82. The case was followed by Eve, J., in the later authority of *Cartland* v. *Henston* [1912] W.N. 110. In that case an article similar to that of art. 99 of Table A was relied on by the defendant directors, but Eve, J., remarked that to allow such an article to prevail over the ordinary rules of court might, in some cases, be allowing it to be used as an engine of dishonesty.

To complete the brief survey of the subject, we should notice that upon the company going into voluntary liquidation a right given by the articles to inspect the books ceases to apply, although in *Morgan's Case*, 28 Ch. D. 620, where the winding-up was for the purposes of reconstruction, Bacon, V.-C., held the plaintiff entitled to inspection of the books. Finally, it has been held that an article giving shareholders a right to inspect books "wherein the proceedings of the company are recorded" does not extend to the minute books of directors' meetings.

Continuing with our examination of the statutory provisions, s. 123 provides that directors at some date not later than eighteen months after incorporation and thereafter once at least in every calendar year must lay before the company in general meeting a profit and loss account. Sub-section (2) provides that a balance sheet shall be prepared as at the date to which the profit and loss account is made up, and that a report by the directors as to the state of the company's affairs, the amount recommended to be paid in dividend and the amount carried to reserve, must be attached thereto. This section and the subsequent sections dealing with the items required to be stated in balance sheets are new. The expression "profit and loss account" is not defined. It must, however, disclose, in accordance with the provisions of s. 128 (1) (c), the total remuneration paid to directors.

I do not propose to deal in detail with the provisions of ss. 124–130, which deal with accounts generally. Let us remember that shares in subsidiary companies must be set out separately in the balance sheet; and that the accounts must contain particulars of loans to directors, as well as their remuneration. Every balance sheet must be signed by at least two directors, or if there is a sole director, by that director, and the usual auditors' report attached to the balance sheet: s. 129. If a copy of the balance sheet is circulated or published without having been signed, or without having the auditors' report attached to it, the director, manager or other officer at fault is liable to a penalty of fifty pounds. It will be noticed that a mere reference to the auditors' report is not now sufficient. Section 130 imposes upon the company (not being a private company) the statutory duty of supplying to every member of the company a copy of the balance sheet, including every document required by law to be annexed thereto, which is to be laid before the company in general meeting, together with a copy of the auditors' report, not less than seven days before the date of the meeting.

In the case of a private company, a member is entitled to be furnished, within seven days after he has made a request for it to the company, with a copy of the balance sheet and auditors' report at a charge not exceeding sixpence for every hundred words.

(To be continued.)

A Conveyancer's Diary.

Vesting of Settled Land held in Undivided Shares.

I HAVE had the following problem put to me by an eminent conveyancer in Lincoln's Inn, and I must say that it rather puzzles me.

Before 1926 a testator devised real estate to his daughter for life and after her death to her children as she should by will appoint. The daughter died after 1925, having by her will made an appointment in favour of all her children in equal shares. Then there was a general grant of probate of the daughter's will to her executors and also a special grant to the trustees for the purposes of the S.L.A. of the father's will. The special executors executed an assent in favour of the general executors of the daughter's will, relying upon s. 34 (3) of the L.P.A., 1925. The question is, was that right? I do not think that it was.

Section 34 (3) of the L.P.A., 1925, reads as follows:—

> "A devise bequest or testamentary appointment, coming into operation after the commencement of this Act, of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to the trustees (if any) of the will for the purposes of the Settled Land Act, 1925, or if there are no such trustees, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts hereinafter mentioned."

Now, it seems to me that that sub-section only applies to a case of a general power of appointment, and not to a special power. If not, I cannot reconcile it with the provisions of s. 36 of the S.L.A., 1925, which enacts—

> "(1) If and when after the commencement of this Act, settled land is held in trust for persons entitled in possession under a trust instrument in undivided shares, the trustees of the settlement (if the settled land is not already vested in them) may require the estate owner in whom the settled land is vested (but in the case of a personal representative subject to his rights and powers for purposes of administration) at the cost of the trust estate, to convey the land to them, or assent to the land vesting in them as joint tenants, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been so conveyed to or vested in the trustees."

Then, by sub-s. (2), it is in effect enacted that the trustees of the settlement shall hold the land upon the statutory trusts.

It seems to me that, in the case put to me, the proper persons to have the land vested in them were the trustees for the purposes of the S.L.A., 1925, of the will of the father, and that the general personal representatives of the daughter had no right to call for the vesting of the land in them. I should not care to accept a title from them.

I am afraid that this subject is rather a hobby-horse with me and I do not wish to ride it again. I have said elsewhere all that I could say, and the decision in *Re Cugny* [1931] 1 Ch. 305, has justified me.

Trustee and S.L.A. out of the Jurisdiction.

Another rather interesting point has been raised by the same learned counsel, and I am at a loss to find an answer to it. It is put to me in this way: There is a deed of declaration stating that a S.L.A. trustee has been out of the United Kingdom for more than a year and that a new trustee has been appointed in his place, but the deed is not executed by him.

The point raised is, whether the deed ought to be executed by the absent trustee.

It is, of course, manifest that such execution was not intended, for, obviously, if a trustee is abroad and a new trustee is, on that ground, appointed in his place, it would be absurd to suggest that he should execute the deed displacing

him. Nevertheless, if we look at s. 35 of the S.L.A., 1925, it seems to be plain that he must execute it! At present I see no answer to that.

Distributable Shares of Missing Beneficiaries.

I am unwilling to pursue the controversy between the learned contributor of the articles which have appeared under this heading. It is, however, only fair to myself to say that my learned friend (unintentionally, of course) has done me an injustice in saying (as he does in his article published in another column) that I said that s. 27 of the T.A., 1925, does not apply to claims by beneficiaries. I did not say that. I have only to add that I do not think that a decision given more than forty years ago upon special circumstances is a good guide to modern practice, and that I shall continue to advise trustees and executors in any "special case" to seek the protection of the court rather than to rely upon their own judgment as to what would or would not "have been directed by a court of competent jurisdiction in an action for administration." If our learned contributor could send me a print (or tell me where I can obtain one) of one of the daily newspapers in which "advertisements of applications by trustees to the court by way of originating summons that missing persons shall be presumed to be dead," I should be greatly obliged to him, as I think that, in common with most of us in practice in Lincoln's Inn, it would afford evidence of a procedure with which we are not familiar.

Landlord and Tenant Notebook.

Apportionment Problems.

THE questions which arise when a landlord has parted with his interest in part of the reversion, or a tenant has assigned part of the premises demised, may be said to have been fairly well settled by now; but many doubts were allowed to exist for centuries, and some have been resolved comparatively recently. These assignments occur usually when what are by nature two sets of premises are let by a single lease, and the possibility of trouble is an argument in favour of employing separate instruments. But it sometimes happens that portions of premises not naturally severable are sold or assigned. How complicated can be the position is to be seen from a perusal of *Mayor, etc., of Swansea* v. *Thomas* (1882), 10 Q.B.D. 48. It is not necessary for present purposes to set out all the remarkable facts of that case, in which the Corporation of Swansea sued the executrix of an original tenant for 16½ years' arrears of rent. But, the testator had accepted the grant of a ninety-nine years' lease in 1835, the premises including a field called Goose Island, for which the rent was £15 15s. The parcels also included other fields, for which a rent of £10 was payable; so possibly some division had been contemplated, but not the sub-division of Goose Island, both as to residue and as to reversion, which actually occurred. The testator's death occurred in 1844; in 1863 the defendant assigned her interest to trustees, and next year the sub-dividing process began. Part of the leasehold interest in Goose Island was assigned to three trustees, who very soon transferred part of it to a firm of contractors, Messrs. W. & O.; the leasehold interest in the rest of Goose Island they (the trustees) assigned to the Swansea Harbour Board. At about the same time the plaintiffs disposed of the reversion in part of Goose Island to a railway company; but apparently the boundary separating the freehold interests did not correspond to that separating the leasehold interests, and the land held by Messrs. W. & O. was in the part retained by the plaintiffs. But no rent was paid in respect of it for sixteen and a half years, and the action was now brought for an apportioned rent, the parties agreeing that if the defendant was liable £8 8s. would be the proper annual amount. It was held that as she had never taken possession, there was no liability arising out of privity of estate; but as executrix and assignee, she was liable as regards assets in her hands. As to the plaintiffs' position, there "was no reason why" an assignor of part of a reversion should not sue for apportioned rent; but in view of the delay, judgment was given without costs.

Some years later, *Baynton* v. *Morgan* (1888), 22 Q.B.D. 74, C.A., provided us with authority to the effect that a surrender of part of premises demised, by an assignee of the original tenant, does not put an end to the latter's liability for (apportioned) rent.

In this case, the claim was originally for the whole of the rent reserved, but was subsequently amended to an apportioned part. In *Salts* v. *Battersby* [1910] 2 K.B. 155, the same thing happened, but the issue ultimately fought was whether the apportionment should be made (as the county court judge had thought) by reference to the state of affairs obtaining at the time of the grant, or to that obtaining at the time of the assignment of part. It is surprising that there should have been no clear authority on the point in the year 1909; however, it was then laid down that the date of the assignment is decisive. As some of the land had been built upon, and the other was waste, the matter was of some importance.

The question whether an assignee of part of the leasehold can be sued for the rent of the whole was disposed of in *Curtis* v. *Spitty* (1835) 1 Bing. N.C. 756, the plaintiffs' argument being founded on the proposition that distress could be levied on any part for the whole rent. The issue was raised on a question of pleading, and the decision does not do more than lay down that if distress can be so levied, it does not follow that an action of debt can be brought; for distress is founded upon privity of estate. But the report makes it clear that the court considered it established law that distress can be levied anywhere on the premises.

The provisions introduced by L.P.A., s. 190 (3) and (4), refer to the subject equally guardedly. The first sub-section makes agreements between assignor and assignee exonerating either part of the premises, or apportioning the burdens, binding upon them; but without prejudice to the rights of the lessor—and the enactment avoids defining the scope of those unprejudiced rights. The second sub-section gave a special right of distress to assignor or assignee who "pays or is required to pay the whole or part of the rent" which ought to have been paid by assignee or assignor respectively. The Legislature, in fact, studiously avoids committing itself; true, "the rights of the lessor" is less indefinite than "any rights" would be; but the "pays or is required to pay" cannot be said to imply that the payer could be compelled to pay.

Our County Court Letter.

INTERIM AWARD OF WORKMEN'S COMPENSATION.

IN *Ehrenfried* v. *Thompson's (Skirbeck) Mills Limited*, recently heard at Boston County Court, the applicant had had an accident on the 26th September, 1932, in respect of which he had received 23s. 11d. a week until the 17th February, 1933. On the latter date compensation ceased, on the report of the respondents' doctor, viz., that the incapacity was no longer due to the accident, but to spinal trouble. The applicant's doctor disagreed with this report, but the respondents—without applying for arbitration, review or termination, or for a medical referee—had merely ceased payments. The reason given was that the certificate of the applicant's doctor was not in accordance with the Act, and could be ignored. The applicant's case was that (1) the latter question was a matter for arbitration, which he had therefore requested; (2) moreover, he was entitled to an interim award, by reason of the high-handed

action of the respondents, who had not adopted the statutory procedure for terminating payments. The respondents pointed out that there had been delay in commencing proceedings, and—if the result was in favour of the respondents—they would not recover any of the interim payments. His Honour Judge Langman held that it would be a greater hardship to the applicant not to have any interim payments, in the event of his being eventually successful. An award was therefore made of £47 16s. 8d. (the arrears), and for 23s. 11d. a week until the hearing, with costs.

THE CONSTITUENTS OF FRAUDULENT PREFERENCE.

THE above subject has been considered in two recent cases. In *In re Hotckin: Turton* v. *Dudley*, at Boston County Court, the trustee claimed £3 10s. received by the respondent as a fraudulent preference. The evidence was that the bankrupt had paid cash for work done by the respondent, who was unaware of the insolvency. His Honour Judge Langman observed that (1) there was no question that the amount was due to the respondent, against whom there was no suggestion of fraud; (2) although the term was inapt, an act of fraudulent preference had been committed, as the debtor became bankrupt twenty-two days after the payment; (3) the applicant was entitled to repayment, but the respondent would have a right of proof, with the other creditors. Judgment was therefore given in the terms of the motion, with costs.

In *In re Whales*, at Ipswich County Court, the trustee applied for a declaration that three documents were fraudulent conveyances or transfers under the Bankruptcy Act, 1914, s. 1 (1) (*b*), and were therefore void. The applicant's case was that (1) on the 26th September, 1932, the debtor purported to convey to a company his two businesses and a debt of £1,627 17s. 3d., these being his only assets; (2) the only shareholders were the debtor and his wife, who were aware of the circumstances, and the effect was to defeat and delay creditors. The respondent's case was that (*a*) the above was merely the date for completion, whereas the date of the original contracts was the 25th April, 1932; (*b*) the trustee's title did not relate back to that extent. His Honour Judge Hildesley, K.C., held that (1) the transactions could only have been held good, if an independent *bona fide* purchaser had given value, by way of consideration for a conveyance or transfer completed subsequently; (2) in the absence either of such a purchaser, or proper consideration, the transactions (even if completed in April) could still have been impugned at a later date; (3) as the pretended vendor was insolvent, there arose an inference of fraudulent intent. Judgment was therefore given for the applicant, with costs.

INSANITY AND WORKMEN'S COMPENSATION.

THE above subject was recently considered at Stafford County Court in *Moyle* v. *London Midland & Scottish Railway Co.*, in which a widow claimed an award in the following circumstances: (1) the deceased (having been employed as a platelayer for twelve years) fell out of a wagon on the 10th February, 1929, and hurt his head on the rails; (2) after receiving compensation for five weeks, he returned to work, but—in contrast to his previous hearty disposition—he became dull and depressed, and complained of pains in the head; (3) he had medical attention for nerves in July, 1933, and—on the 28th August—he committed suicide under an express train. A submission (that there was no case to answer) was overruled, and the respondents' evidence was that (*a*) the deceased was not seriously injured (in 1929) and there were no complaints about his subsequent work; (*b*) in 1932, however, he developed religious mania, but this was not brought about by the accident in 1929; (*c*) if so, the connection would have been apparent to a trained observer, and there were none of the usual symptoms, e.g., loss of memory. His Honour Judge Ruegg, K.C., gave judgment for the respondents, who did not ask for costs.

Land and Estate Topics.

By J. A. MORAN.

THE world-wide depression led to monetary conditions that resulted in greatly diminished opportunities for using capital to much advantage. Rates of interest suffered a general decline, and it is not surprising that there was a general improvement in the demand for real estate. In fact, the market was well sustained right up to the threshold of Christmas. This was not only in regard to urban house property, ground rents and building sites, as landed estates were purchased both at auction and by private contract. More than 5,000 acres of the Lullingstone Estate, near Eynsford, in Kent, passed out of possession of the Hart Dyke family after being their property for many centuries. The death duties were chiefly responsible for this breach in an old association, and it is more than likely that the area, famed for its natural charm and beauty, will soon develop into a superior Clapham or Tooting. True, this alteration may be welcomed by some people, purely in their own personal interests, but the country at large will deplore the tendencies of harmful Parliamentary legislation that successive Governments have imposed on struggling landowners. Another family break arose out of the sale of Drakelowe Hall, the Midland domain of the Gresleys for as many as twenty-eight generations. The Shirleys, of Ettingham, are now the only family who are settled on estates the possession of which was confirmed to them in the great feudal register of William the Conqueror.

The College of Estate Management has a knack of stimulating interest in subjects of first-rate importance, all presented and commented on by authorities of undoubted ability. Lecturing on the subject of the Rent and Mortgage Restriction (Amendment) Act, 1933, Mr. Graham Mould, barrister-at-law, said it was always well to read the definition section to an Act before proceeding to study the Act itself. According to the measure under review, a house might be a room, and a room, a house. The landlord might become the tenant, and the tenant, the landlord; while a house might contain a half-dozen rooms each of which might be a separate dwelling. It is just as well to know where we are.

It is not long ago since Messrs. Debenham, Tewson and Chinnocks made history by selling 130 lots of the Cundy Estate—all that was on offer at the time—for £128,035. And now Mr. Seagram Richardson and his partners are preparing for the auction of another portion of this vast estate—this time, the building known as the West Ham Stadium, which ranks among the best-equipped greyhound and speedway tracks in the Kingdom. It would be only in the fitness of things that the speed that was a marked feature of the first auction should be still more in evidence at the coming sale.

The statement issued by the London Auction Mart, Limited, showing the result of the year's sales, is very satisfactory. This must not be accepted, however, as a sure sign of the trend of the market. The increase of £877,245 over the actual sales effected during the previous years are, in my opinion, due to the increasing popularity of the Queen Victoria-street building. Much is to be said in favour of a central position which is easily accessible from all quarters.

The annual reports that at one time were very popular among auctioneers show a considerable falling off, and many of the leading firms have dropped them altogether. There are, of course, exceptions; but as a rule the confidences exchanged between the auctioneer and the public are confined to what happened under one roof, and these are of little use to the investor or speculator.

In one report which goes out of its way to extol the class of property to be had in the district under review, we are told that there are certain decided improvements in modern property as compared with the older type. Quite so; but it is well to bear in mind that sometimes these improvements

attract so much attention that little or no notice is taken of defects in other directions. There are other things besides dainty fireplaces and tiled bathrooms; and close inspection by an expert, which can be had for a reasonable fee, will soon place everything in its proper perspective. Brought up to date, the pre-war house has much to commend it, and is far more reliable than those constructed in a hurry, and offered to the public on what appear to be bargain terms.

The Minister of Health has directed enquiries to be held under the Housing Acts in a number of towns as to the adequacy of their slum-clearance programmes. Included in the official list are Lewes, Worthing and Margate. If the other towns require slum clearance as much as the Kentish popular resort, I welcome the enquiry. There are some spots in Margate that are enough to make a dustman weep.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

The late Mr. T. R. S. Perry.

Sir,—It is with the very deepest regret I write to inform you that Mr. T. R. S. Perry, our Hon. Secretary, perished in the ill-fated Imperial Airways liner "Apollo," on Saturday last, near Ruysselede, Belgium. Mr. Perry went to that country only three days previously to complete some important business for his firm, which sufficiently delayed him at the last moment to prevent his return on Friday, as was his intention, by the mail boat from Antwerp. He thereupon telephoned to his wife in Surrey saying he would recover the time lost by returning on Saturday in the mid-day air liner from Brussels, and be home in plenty of time to see the Old Year out. Missing that boat cost him his life, for half an hour after boarding the air liner at Brussels the liner was totally destroyed with all on board.

Mr. Perry, who was a very keen lawyer, had been Hon. Secretary to our Association for several years up to the time of his death, and was one of our most popular officers. He was also on the Committee of the Solicitors' Clerks' Pension Fund, and did splendid work for it. All who knew him will cherish his memory as that of a man of great personal charm and character, and a delightful and staunch friend; his tragic death is an irreparable loss to all who came in touch with him. He leaves a wife and two young children.

Mr. Perry was managing clerk to Messrs. Wordsworth, Marr Johnson & Shaw, of 39, Lombard-street, with whom he had served for very many years, and in writing to me they say:—

> "Mr. Perry joined Mr. Wordsworth on leaving school, and they have never since been parted, except during the war, when he was serving with the Army. We are proud of our association with him, and it is a consolation to us to receive such an appreciation as you have sent us. We can confirm all you say; he had a remarkable alertness of mind, and he could fight mightily, and yet always in a friendly spirit. We would like to add that we were proud of the position he held in your Association. We can never hope to replace him."

Mr. Perry was only thirty-five years of age, and realising the need, my Association anticipates that it may become necessary to open a subscription list from the legal profession for the benefit of the widow and children, particulars of which will be circulated later if necessary.

FRANCIS TAYLOR,
President,
The Solicitors' Managing Clerks' Association.

Arundel House,
Arundel-street, W.C.2.
3rd January.

Distress for Tithe Rent-Charge.

Sir,—Has not the learned reporter of the case of *Swaffer* v. *Mulcahy* and other cases been guilty of a clerical error, on p. 900 (in which you have followed him in your note, on p. 890), in using the word "tithable" in relation to sheep instead of "distrainable."

Sheep were tithable in respect of their wool and of their lambs.

It is notable that in a short account of the rights of a distrainor under the heading "A distreyner pur le rent," in "Coke upon Littleton," no mention is made of any exemption of sheep or of the alleged statute of 51 Hen. III.

Norwich. ERNEST I. WATSON.
22nd December.

[We thank or correspondent for his letter. It appears that "distrainable" is the word which should have been used.—ED., *Sol. J.*]

Claims to German Estates.

Sir,—I was recently instructed to prove the claims of certain persons living and born in this country, and therefore British-born subjects, who were the next-of-kin of a German national who recently died in Germany.

The preparation of the claim involved a great deal of research and some very considerable expense, including several advertisements. The claim was prepared in the form of a statutory declaration, which after being notarially certified was sent out to my firm's German agents. After a long delay it was intimated that there was a query on the pedigree, but that in any case it was not worth while pursuing the matter further as there was not the slightest chance of any money being remitted from Germany to this country.

The people for whom my firm were concerned were all people of narrow circumstances, and the preparation of the claim, which was invited by the German agents, will involve a considerable sum of money in legal costs and expenses.

It seems to me that this is a matter where the Government ought to intervene. Money willed or passing on an intestacy from this country to German nationals is paid without any question, and I suggest that until there is really a civilised government in Germany a pooling arrangement should be set up on the lines in force during the Great War. It is possible that these cases are not very numerous, but it seems to me that the question of principle is involved, and the method I have suggested seems to be the only rational way of dealing with the situation.

22nd December. E. S. W.

Estate Agent and Solicitor.

Sir,—In your article under the above heading in the issue of 16th December, 1933, you conclude by suggesting a short amending Act would remove the difficulty you refer to. In my opinion the time is full ripe for an Act carrying out several amendments or rather limitation of estate agents' powers as at present exercised.

In my opinion they should be debarred from drawing any instruments under hand whatever, save tenancy agreements not exceeding three years and containing no option to renew. In the case of sales and purchases how often do estate agents get the vendor and purchaser to sign a document which makes a binding contract. The fact that the estate agent is quite in the dark as to the vendor's title does not worry him in the least. The agent's sole duty should be to obtain a purchaser, and he should be limited to giving a receipt for the deposit with words inserted that the same should not be deemed a contract.

I have had partnership agreements (of course under hand) shown me. Here again the agent should be prohibited from preparing such a document.

I had a case where an agent induced a purchaser to sign a contract and pay a deposit for the purchase of a house not in existence, but it was to be like one that was shown the purchaser.

The contract for sale determines the right of the vendor and purchaser and requires as much skill (sometimes more) in drawing as the conveyance or transfer.

Pimlico, S.W.1. SOLICITOR.
18th December.

Reviews.

The Law of the Fire Brigade. By R. WYNNE FRAZIER, of Gray's Inn and the Midland Circuit, Barrister-at-Law. 1933. pp. xii and (with Index) 92. London, Liverpool and Glasgow: The Solicitors' Law Stationery Society, Ltd. 5s. net.

Fire brigades are of everyday importance, and their work affects a large number of all classes of people, legally, commercially and financially. In this book Mr. Frazier has commendably carried out the useful task of collecting the available law on this important subject. Its ramifications are extensive; the Table of Statutes alone covers three and a half pages. The control of operations at a fire; charges for the use of fire brigades; the sending of fire engines outside their own district and the negligence of firemen are productive of many disputes and even of head-lines in the popular press! These important matters are adequately dealt with. Although it is not compulsory (many will be surprised to know) for a local authority to maintain a fire brigade, yet Parliament has imposed an imperative duty upon water undertakers to fix fire-plugs and provide a gratuitous water supply for fire-fighting purposes. This important aspect is fully treated by the author; while local government and fire brigade officers will find the chapter concerning fire brigade pensions of much service.

One little criticism may be offered. There are several references to the Public Health Acts Amendment Act, 1907, before the reader is informed that the Act is adoptive. It would have been preferable to have had attention directed to this fact where its provisions were first referred to. This, however, is quite a minor point.

A very useful chapter deals with Miscellaneous Fires. The list includes country house conflagrations, heath fires (which have been so prevalent this year), burning refuse tips and even the humble "chimney on fire."

The author has performed his task admirably. His collection of cases, some not available in the ordinary reports, will prove very serviceable. The value of the treatise is, moreover, enhanced by the fact that, in addition to the general law applicable to England and Wales, it presents the special law affecting the Metropolis and Scotland. The book is not one for lawyers only; it can be commended to local government administrators and officers, police and fire brigade officers, insurance officials and all classes of property owners.

Trust Accounts. Fifth edition, 1933. By PRETOR W. CHANDLER, Master of the Supreme Court. Demy 8vo. pp. xxiv and (with Index) 394. London: Butterworth and Co. (Publishers), Ltd. 15s. net.

The system of keeping trust accounts lucidly expounded in this volume has been elaborated with a view to securing uniformity of practice. It is a skilful adaptation of the forms prescribed by the Rules of Court for use in Chancery, and "is capable of expansion to meet the special requirements of large estates." The nature of the principle underlying this consolidated method is analytical. When the property is rationally divided and the accounts are clearly classified, the record of any transaction, however complicated it may be, becomes extremely simplified. A series of short, crisp entries are made, each of which is numbered, and gives but one aspect of the transaction in hand. Whenever relevant, each entry in one account contains a reference to a sister or parent entry in another account, so that one discovers with perfect ease the history of every asset and the position of every account together with its relation to other accounts of the same estate.

Detailed demonstrations are given, with the valuable assistance of complete and practical appendices, of the manner of keeping an estate book and of presenting accounts, from the making of the book to the discharge of the last item and the closing of every account in it. A repetition here and there is welcome, obviating as it does the irritating experience of referring to a passage in a chapter dealing, say, with hotchpot, whilst one is concentrating on a point with regard to apportionments. Trustees, executors, administrators, accountants and estate managers are recommended to seek the guidance of this mentor through the baffling mazes of numerous accounting incidents invariably connected with the management of property; for the learned Master, if we may respectfully say so, has achieved a really masterly work.

The Journal of Comparative Legislation and International Law. November, 1933. London: Society of Comparative Legislation. 6s. net.

It is not possible in the compass of a short review to deal with all the miscellaneous subjects in a full number of a specialist journal, and a reviewer is driven to mention those which interested him most.

The paper on "The Law of Slavery in Abyssinia," by A. L. Gardiner, Esq., M.A., LL.B., is very informative. Abyssinia, in spite of law, is one of the last strongholds of slavery. "The state of the law as it stands at present is sufficient not only to protect the slave but also to terminate slavery completely within a generation." But it is not enforced continuously, and is defeated by its being overlaid by custom running contrary to its provisions, and the outlying provinces are under very imperfect control.

"The Revolt against the Capitulatory System" by the late Sir Alexander Wood Renton, G.C., M.G., K.C., is a brief historical review of a complicated and usually ill-understood subject. It discloses one of those curious reversals of the thing planned which continually illustrate the pessimistic remark about the plans of men and mice. Just as the exclusion from Roman law of non-Romans produced a transformation of the Roman law, so the refusal of the Turkish law to recognise non-Moslems produced the capitulations and led to that complicated system of wide scope known as extra-territorial jurisdiction. The steps of this process are clearly set forth. "The capitulatory system was originally imposed on the foreigner as a penalty. It was guarded by him as a privilege. It has come now to be viewed by the few countries in which it is still in force as a burden too heavy to bear." It will no doubt shortly disappear, not without leaving a great monument in the Mixed Courts of Egypt, to be perhaps the model of a world judicial system.

One of the most interesting observations in this part of the journal is in a review. "Instead of the Dominion Constitutions remedying the development of the Free State, the Constitution of the Free State has tended to transform the relations of the Dominions." It is still an open question whether Ireland has dissolved the Empire, or produced the conditions which alone could have held it together. A great role has been played in either case.

Books Received.

The Law Relating to Flats. By R. GRAHAM PAGE, LL.B. (Lond.), Solicitor's Honours. 1934. Demy 8vo. pp. xxiv and (with Index) 143. London: Butterworth & Co. (Publishers) Ltd. 10s. 6d. net.

To-day and Yesterday.

Legal Calendar.

1 January.—Charles Bowen, born on the 1st January, 1835, at Woolaston, where his father was curate, had energy and genius so far beyond his bodily powers that his acceptance of a Queen's Bench judgeship at the age of forty-four was a surrender to ill-health, the sacrifice of more active ambitions. In appearance, still almost boyish, he was exhausted physically. He lived, however, to display his subtle mind, brilliant perceptions and delicate wit in the Court of Appeal and the House of Lords. He is remembered as one of the most lovable figures in legal history.

2 January.—Lord Loughborough died on the 2nd January, 1805. From an unknown Scots barrister, he had fought his way through political strife to the Chancellorship, an Earldom and a tomb in St. Paul's Cathedral.

3 January.—Judge, churchman and diplomat, John Clerk was versatile enough to be a doctor of law of Bologna, a Star Chamber judge, Master of the Rolls and a Bishop, but not to walk safely amid the matrimonial intricacies of the Tudors. He failed to engineer a match between the French King and the Princess Mary. As counsel for Catherine of Aragon in the royal divorce suit, he betrayed her interests. Finally, he failed to explain plausibly to the Duke of Cleves his royal master's repudiation of the marriage with the "Flanders Mare." The unfortunate ambassador returned to England poisoned and died on the 3rd January, 1541.

4 January.—Pierre Antoine Berryer was born on the 4th January, 1790, the son of a successful barrister. He grew into consciousness amid the horrors of the French Revolution which did not leave his family unscathed, conceiving an early hatred for the subversive tyranny which overthrew the monarchy. He, too, went to the Bar, where his brilliant talents built him an international reputation, while the singular loftiness of his character earned him a degree of reverence unique among his contemporaries. His visit to England in 1864 was an event of national importance, and he was hailed as "an illustrious citizen, an eminent patriot, a great orator and a peerless advocate."

5 January.—The sale of an estate in the island of Nevis brought poor John Barbot, attorney-at-law, to an early grave. He had a slight difference of opinion with one of the parties interested who said something about "cavilling" and "boy's play," which he instantly resented. Letters were exchanged, and early one morning they met with pistols. Barbot shot his man and on the 5th January, 1753, he was found guilty of murder at Basseterre in the island of St. Christopher, and sentenced to be hanged. We read that "his judgment was by no means solid and his mind of a romantic cast, though not without something ingenious in it."

6 January.—"They cut his throat from ear to ear;
His brains they battered in.
His name was Mr. William Weare;
He dwelt in Lyon's Inn."

Such was the murder for which John Thurtell and Joseph Hunt were tried at Hertford on the 6th January, 1824. Various newspapers had a hundred horses on the road to carry express reports, and when Park, J., took his seat the court was crowded to suffocation. It is odd that Thurtell and his sordid crime should have excited the interest of such literary men as Borrow, the elder Hazlitt and Sir Walter Scott. A passage in one report inspired Carlyle's "gigmania."

7 January.—On the 7th January, Thurtell and Hunt were condemned. The judge was visibly labouring under great emotion. Hunt sobbed aloud, but Thurtell, theatrically conscious that every eye in court was upon him, ostentatiously consumed a pinch of snuff when, at the end of a long, earnest and characteristically pious address to the prisoners, the judge reached the dreadful climax of his words.

This Week's Personality.

When Lord Loughborough lost the Chancellorship in 1801, he refused to resign himself to political and social obscurity, unconsoled by an annuity of £4,000 and an advance in the peerage as Earl of Rosslyn. To the embarrassment of the new Government, he continued to attend Cabinet meetings until the Prime Minister politely but plainly requested him to go no more. He took a house in the neighbourhood of Windsor Castle, and for the rest of his life haunted the shadow of royalty, forcing his way into the King's presence on all possible occasions and even dogging him on his visits to Weymouth. George was courteous to his late Chancellor, whom he always received with apparent kindness. It was at a party at Frogmore, on New Year's Eve, 1804, that this most assiduous of courtiers entered the royal presence for the last time. Next day, "while sitting at table seemingly in his usual health, his head dropped on one side and it was found that he was struck by an attack of gout in the stomach. He never spoke again, and he expired in a few hours." When the King was informed of his death, his comment was: "Then he has not left a greater knave behind him in my dominions."

New Year's Gifts.

A happy New Year to all our readers! If they had but lived some centuries ago, those of them who are Chancery practitioners or officers of the court would have marked the first day of January by taking breakfast with the Chancellor. The officers of the Common Law courts would have gone to pay their respects to the Chief Justices. Remote antiquity celebrated these occasions on "bottle party" lines, the guests bringing wine and provisions, till the greater convenience of token payments brought monetary offerings into fashion. A delicately minded Chancellor might well feel that he cut a somewhat equivocal figure in the triple role of judge, host and cashier. Lord Nottingham as he received each present cried out: "Oh tyrant custom!" much in the manner of Pooh-Bah pocketing an insult. A more tactful age initiated the tea-shop habit of leaving money under the plate and, till about a century ago, guests invited to the New Year's dinner of the Chief Justice of the Common Pleas understood where a banknote was expected to be found after they left the table. But long before that Lord Cowper had swept the custom out of Chancery. Tradition was strong, but, as Lord Keeper, he secured a doubtful assent from the Prime Minister. In 1706, he wrote in his diary: "New Year's Gifts turned back; and pray God it do me more credit and good than hurt, by making secret enemies *in fœce Romuli*."

Infants in Court.

The infant who had the honour to howl its way into the kindly arms of the sister of Lord Justice Lawrence while its mother made an application to the Court of Appeal is probably the youngest person ever to address that distinguished tribunal. Babies are, of course, less of a novelty in county courts where, borne into the witness-box, they are sometimes cast for the part of advocates *ad misericordiam*. In connection with this practice, one kindly but shrewd old judge in the North had to announce that he did not mind any mother bringing her *own* child into court. The earliest forensic triumph known is probably that of Berryer, the future leader of the French Bar, when at the age of two he was taken by his mother to hear his father argue a case. Counsel on the other side was long-winded and tiresome in the extreme, and, long after everyone was wearied out, showed no sign of running down. Then suddenly, little Berryer's voice was heard: "Mother, that's enough. I'm tired of this. Let's go." Loud laughter and the confusion of the orator gave the judge his chance to intervene. "The hearing is closed," he said. "Counsel may tie up their briefs. The court will give judgment."

Notes of Cases.

Court of Appeal.

Corry *v.* **Robinson (Inspector of Taxes).**

Lord Hanworth, M.R., Slesser and Romer, L.JJ.

4th December, 1933.

REVENUE—INCOME TAX—CIVIL SERVANT SERVING ABROAD—SALARY ALLOWANCES—OFFICIAL RESIDENCES—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. E., rr. 1, 6, 18.

Appeal from a decision of Finlay, J.

C, a civil servant, was appointed by the Admiralty to a post at Singapore Dockyard as deputy cashier, a post which he filled from 1st August, 1928, to September, 1931. He was paid a salary and, in addition, a "Colonial allowance." During part of the time he was provided with an official house, as residence, and when not so provided he received a housing allowance in lieu of a house. He was assessed to income-tax under Sched. E for the three years of his service in Singapore in the full sum representing the salary and allowances and also the value of the official residence. He appealed against the assessments, contending that his income, being earned wholly abroad, was not subject to taxation in the United Kingdom under Sched. E; also that in any case the allowances could not be included. Finlay, J., held (1) that C was liable to be so assessed on his salary, colonial allowance, and allowance in lieu of a house. He thought, however, (2) that the value of the official house was not income, and could not be calculated as such for assessment. C appealed on the first point; the Crown cross-appealed on the second.

The court dismissed both appeals.

Lord HANWORTH, M.R., said that r. 1 of Sched. E of the Income Tax Act, 1918, purported to bring within the liability to tax all persons holding public appointments, offices of profit, pensions, etc., and so was *primâ facie* applicable to C. Rule 6 laid it down that tax was to be paid in respect of all public offices and employments of profit within the United Kingdom, or by certain officers thereinafter described. It was therefore necessary to see what office held by the appellant was an employment of profit within the United Kingdom. To find that out, it was only necessary to turn to r. 18 (2), which stated: "A person chargeable in respect of an office or employment of profit shall be deemed to exercise it at the head office of the department under which it is held, and shall be assessed and charged at that head office, although the duties of the office or employment are performed, or any profits thereof are payable elsewhere, whether within the United Kingdom or not." That section seemed to afford a key to the construction of the words used in r. 6. It seemed that the duties of C must be deemed to have been exercised at the head office of the Navy, which was in London. As regarded the allowances, once it was ascertained that C was properly assessed, the assessment must be considered according to the ordinary rules, and there was no doubt that the allowances actually paid were part of the salary. But with regard to the cross-appeal the position was different. The residence was provided for C with the express proviso that he was not to sub-let, it in whole or in part. He could not make a profit out of it. When the question was considered what could or could not be turned into money by C, and when the limited powers over the house were remembered, there was a negation of the idea that the value of the house ought to be treated as liable to bear income-tax. The appeal and cross-appeal must be dismissed.

COUNSEL: *Raymond Needham*, K.C., and *Cyril King* for C; *Sir Donald Somervell*, K.C., and *Reginald Hills*, for the Crown.

SOLICITORS: *Linklaters & Paines*; *Solicitor of Inland Revenue.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Dorman Long & Co. Ltd.**

In re **South Durham Steel and Iron Co. Ltd.**

Maugham, J. 22nd, 23rd, 24th, 28th, 29th and 30th November, 1933.

COMPANIES—SCHEME OF ARRANGEMENT—SANCTION OF COURT—MEETINGS OF SHAREHOLDERS—PROXIES—FORM—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 153.

The first petition by Dorman Long & Co. Ltd. was for the court to sanction a scheme of arrangement and to confirm a reduction of capital from £11,248,146 to £1,750,678. The second petition by the South Durham Steel and Iron Co. Ltd. was for the court to sanction a scheme of arrangement under which the assets of the company were to be acquired by Dorman Long & Co. Ltd. Dissentient shareholders of the second company opposed the scheme as unfair, further alleging the improper rejection of proxies which would have defeated the scheme.

MAUGHAM, J., in giving judgment, said that the court had a twofold function, to see that the resolution was passed by the statutory majority under s. 153 (2) of the Companies Act, 1929, at a meeting duly convened and held, and to see whether the scheme was such as an intelligent and honest man might reasonably approve. In most cases only a fraction of the persons concerned could get into the room where the meeting was held and proxies given to the directors before the meeting had settled the question. Therefore the board must send out explanatory circulars giving all information necessary. Section 153, which said there must be a three-quarter majority, was silent as to the nature of the instrument appointing the proxy. There were, of course, two forms, the general proxy and the special proxy. In this case the company was not winding up and no rule of court was applicable, nor were the articles of association nor the trust deed to secure debentures. Neither the order of the court directing the meeting nor the form of proxies settled in chambers precluded a member of a class from using proxies under his general right given by s. 153. The form settled in chambers did not preclude the use of other forms with the printed word "against" or "for" filled in before it was handed to the chairman. There was no reason why proxies should not be lodged in time for the chairman before the meeting to know the result. Persons who, as directors, got proxies were bound to use them and had no discretion. In the Dorman Long petition, so far as the shareholders were concerned, the resolutions were carried out by proper majorities and were such as a reasonable member of the class would approve; but so far as the 5½ per cent. first mortgage debenture-holders were concerned there were various grounds for criticism, and the court could not confirm the scheme, which was a matter for the stockholders themselves. In the South Durham petition, the resolutions, in view of the circumstances with regard to the proxies, had not been passed at two of the three shareholders' meetings. His lordship directed fresh meetings of the classes concerned in the South Durham case and of the 5½ per cent. debenture-holders in the Dorman Long case.

COUNSEL: *Greene*, K.C., and *David Jenkins*; *H. Christie*; *F. Lincoln*; *Spens*, K.C., and *Wilfred Brown*; *Morton*, K.C., and *Gedge*; *R. W. Turnbull.*

SOLICITORS: *Freshfields, Leese & Munns*; *G. Houghton and Son*; *Lincoln & Lincoln*; *Johnson, Weatherall, Sturt and Hardy*; *Crossman, Block & Co.*, agents for *Jas. H. Smith and Graham*, of West Hartlepool; *Nicholl, Manisty & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Mr. Septimus Brutton, solicitor, of Southsea, left estate of the gross value of £187,265, with net personalty £94,065. He left £500 to St. John's Foundation School for the education of Sons of Poor Clergymen.

C. and T. Harris (Calne) Ltd. *v.* **Harris.**

Farwell, J. 13th December, 1933.

TRADE MARK—INFRINGEMENT—PASSING OFF—MERCHANDISE MARKS ACT, 1887, s. 44.

This was an action for infringement and passing off of the plaintiffs' trade mark and goods. The plaintiffs were a company carrying on business in Wiltshire and elsewhere, and were well known as dealers in English bacon. They were proprietors of the trade mark consisting of the word "Harris" registered in Class 42 in 1909. The defendant, whose surname was Harris, was the owner of a number of shops, but none were carried on under the name of Harris. The shops dealt in various commodities and in bacon, but solely in Danish bacon, and the word "Danish" was stamped on the bacon as required by law. In 1931 the plaintiffs, having discovered that the defendant was selling bacon under the name of "Harris," caused him to be summoned for an offence under the Merchandise Marks Act, 1887, but the summons was dismissed by the magistrate, whereupon the plaintiffs issued the writ in the present action.

FARWELL, J., in delivering judgment, said there were two questions for decision, namely (1) whether the claim on the ground of passing off succeeded, and (2) whether the plaintiffs succeeded on the issue of infringement. The plaintiffs had proved beyond all question that the word "Harris" referred to their bacon, but that bacon was Wiltshire bacon. To anyone in the trade it indicated English bacon, and had never been used in connection with any foreign article. Therefore, the claim based on the ground of passing off could not succeed. The other question rested on different considerations. The defendant contended that English and Danish bacon were two different articles, and that the protection claimed by the plaintiffs was wider than that to which they were entitled (see *Edwards* v. *Dennis*, 30 Ch. D. 454), but that contention was unsound. It was said that he was protected by s. 44 of the Trade Marks Act, because he was using his own name. Was that use *bonâ fide*? If it was, there was no escape for the plaintiffs. It did not mean that it was necessary to prove that the use was fraudulent. If the effect of the use was to lead the public to believe that the goods were the plaintiffs' goods then the defendant was not entitled to use his name on the goods. Was the use of the name Harris on Danish bacon such as to represent that the bacon was of the plaintiffs' manufacture? There was no real risk that the use of the word "Harris" would lead to any confusion since wherever the word was stamped there were also stamped the words "Danish bacon." In the result the plaintiffs failed, and their action must be dismissed with costs. A counter motion by the defendant to rectify the register was also dismissed with costs.

COUNSEL: *Spens*, K.C., and *K. E. Shelley*; *Trevor Watson*, K.C., and *W. Elliott Batt*.

SOLICITORS: *Sharpe, Pritchard & Co.*, for *Ryland, Martineau and Co.*, Birmingham; *J. Albert Davis & Co.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Jenkins *v.* **Deane.**

Goddard, J. 14th December, 1933.

MOTOR CAR—THIRD PARTY INSURANCE—ACCIDENT—UNSATISFIED JUDGMENT—ASSIGNMENT OF RIGHTS UNDER POLICY—ACTION AGAINST UNDERWRITER—POSITION OF SUCCESSFUL LITIGANT IN ACCIDENT CASES.

In this action, brought by Mildred Jenkins against Edmund Deane, an underwriter at Lloyds, the plaintiff claimed a declaration that the defendant was liable to make compensation to her for her own benefit and that of her four children to the extent of one-quarter of £2,711 9s. 3d. In a previous action the plaintiff, as executrix of her husband, Henry Jenkins, deceased, and suing for herself and her children, recovered on the 3rd February, 1933, judgment against a firm of haulage contractors, an insured firm, for £2,600 in respect of her husband's death, and for £111 9s. 3d. costs. The judgment was unsatisfied, and on the 29th June a partner of the firm, on its behalf, assigned to the plaintiff all the rights and interest under the policy, dated the 9th March, 1932, underwritten by the defendant, whereby the defendant promised to indemnify the firm to the extent therein specified in connection with a Ford motor vehicle against all sums which the insured should be legally liable to pay by way of compensation for accidental loss of life. During the currency of the policy, on the 23rd August, 1932, the insured's servant or agent, as the plaintiff alleged, so negligently drove, managed or controlled the vehicle as to cause the death of her husband. In the present action against the underwriter to recover his proportion of the amount insured the defendant pleaded, *inter alia*, that the policy was subject to certain terms, exceptions and conditions prescribed therein. He alleged that in breach of those conditions: (*a*) the vehicle was carrying a load in excess of that for which it was constructed; (*b*) it had a trailer attached to it; and (*c*) before and at the time of the accident the vehicle was in an unsafe condition. The defendant further denied that the accident was caused by the negligent driving, management or control of the vehicle, or that the assignment of the rights to the plaintiff under the policy was valid.

GODDARD, J., referred to the fact that underwriters were disputing liability in a number of cases arising out of motor car accidents, and called attention to the plight of successful litigants who were unable to recover the damages which had been awarded to them. That state of things constituted a serious inroad on the value of compulsory insurance as a protection to the public. Dealing with the facts of the present case, his lordship said that he did not agree that as the Ford car was towing the lorry the weight of that lorry and its load was to be added to the load of the Ford. He was unable to see how it could be said that, in giving a tow, a vehicle or a vessel was conveying a load. Weight that could be carried had no relation to weight that could be drawn. Secondly, as to the question whether the towed lorry constituted a trailer, he thought that the trailer referred to in the clause in the policy was a truck or wagon, commonly called a "trailer," and that the term could not fairly be applied to a temporarily broken-down motor vehicle which was taken in tow. There would be judgment for the plaintiff for the amount of her claim, with costs, and a declaration that the underwriter was liable under the policy. A stay of execution was granted, subject to payment of £500 to the plaintiff, to be irrecoverable in any event.

COUNSEL: *C. L. Henderson*, for the plaintiff; *W. T. Monckton*, K.C., and *Philip Vos*, for the defendant.

SOLICITORS: *Ernest W. Long & Co.*, for *Thornley and Boutwood*, Leighton Buzzard; *William Charles Crocker*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Chancery of Lancashire.

In re **Elder Dempster Superannuation Fund Association.**

Deputy of the Chancellor, Robert Peel, Esq., K.C.

6th December, 1933.

SUPERANNUATION SCHEME—"MEMBER"—ALTERATION OF REGULATIONS—*intra vires*.

By a trust deed executed in 1913 (as amended by subsequent modification deeds of 1924 and 1929) a superannuation scheme was established for the benefit of persons in the service of Elder Dempster and Company Limited (therein called "the company") and its subsidiaries, which term was defined as "limited companies other companies and partnerships or persons whose business is managed or carried on by or under the directions of the Company." The scheme provided for

contributions to be made by "members" and proportionate contributions to be made by the company; it provided for superannuation allowances to "members" on retirement. By cl. 27 of the scheme it was provided that: "Any Member retiring from the Service before superannuation, *bona fide*, of his own accord for any reason other than ill-health . . . and not in order to escape dismissal for fraud or dishonesty or misconduct, or any Member leaving the Service in consequence of his services being discontinued by the Company for any cause other than as last aforesaid, shall be entitled to receive back from the Fund the whole amount of his contributions, but without any allowance by way of interest thereon, and shall have no further claim upon the Fund." By cl. 15 it was provided that "In the event of the Company going into liquidation whether voluntary or compulsory otherwise than for the purpose of reconstruction or amalgamation the affairs of the Association shall be wound up," the committee in such case having to purchase annuities for existing annuitants and having to purchase annuities or make other provision for the members then prospectively entitled to superannuation allowances, regard being had to their respective prospects of becoming entitled if the fund had continued to be carried on. "Members" were defined as "all persons contributing to and entitled to benefit by the Fund, other than Annuitants, namely, All persons in the Service on the 1st January 1914 . . . and all persons who shall enter into the Service after the 1st January 1914" who should comply with the conditions for becoming persons entitled to benefit, one condition being the signing of an agreement to join the scheme. "The Service" was defined as "the service of the Company and/or of the Subsidiary Companies or any of them." By cl. 3, "All or any of the provisions and rules and regulations of these presents may from time to time be altered as the Directors and Committee shall agree, with the sanction of a Resolution of an Extraordinary Meeting . . . provided that no provision or rule shall be altered . . . so as to cause the main purpose of the Fund to be other than the provision of Superannuation allowances for members on retirement." The fund grew to be of considerable size, amounting at the end of 1932 to over £775,000. Meanwhile, owing to the depression in the shipping world, many shipping companies had to retrench and dismiss large numbers of their staffs. On the 29th June, 1932, Eve, J., sanctioned a scheme of arrangement (*In the Matter of the Royal Mail Steam Packet Company and other Companies*, 00136 of 1932) whereby a number of shipping companies should transfer their assets to two new operating companies, and, in particular, a new company to be called Elder Dempster Lines Limited (hereinafter called "the Lines Company") was to be formed to take over (*inter alia*) the vessels of the company and of certain subsidiary companies, and the bulk of the rest of the assets of the parent company (hereinafter called "the parent company") and the necessary staffs engaged in the operation of the transferred vessels, and also to make arrangements as to taking over responsibility for contributions to the Superannuation Scheme. The new company (the Lines Company) was incorporated in August, 1932, and, in fact, without entering into any formal contract so to do, paid the contributions of the parent company under the scheme. The parent company still exists. In September, 1932, the parent company and its subsidiaries discharged as from the end of the year nearly 800 of their total staff of 900. Approximately 750 were re-engaged by the Lines Company, the other fifty not being re-engaged. The parent company and its subsidiaries retained in their original service the other 100 members of their staff. Pending this application, the transferred staff had been provisionally treated as continuing members of the Association and the appropriate contributions had been paid on their behalf. The question arose, under these circumstances, whether the 100 members last-mentioned were alone capable of becoming entitled to the benefits conferred by the scheme (subject always to the vested rights of existing annuitants), or whether the scheme could be altered under cl. 3 thereof so as to re-admit the 750 members transferred to the service of the Lines Company, which was not technically a "subsidiary" of the parent company. The matter was dealt with by passing appropriate resolutions to alter the scheme so as to admit the staff of the Lines Company at a meeting of the existing 100 "members" (with the approval of the directors and committee as laid down in cl. 3), and then bringing the matter before the court on the question whether the alterations were *ultra vires*. It was admitted by all parties that grave injustice might result if the existing members alone were capable of continuing to benefit, and even these 100 members or some of them might be dismissed from the service, when the situation might become even more grotesque. It was also admitted that members who had left the service either at or before the end of 1932, and had not been re-engaged, would not be entitled to benefit by the proposed alterations. Both the Registrar of Friendly Societies and the Inland Revenue authorities approved the alterations.

THE DEPUTY OF THE CHANCELLOR, after stating that he was satisfied that the vested rights of existing annuitants would not be prejudicially affected, held that the proposed alterations were *intra vires*. He said that the power to alter the scheme was subject to two implied limitations, namely: (1) That any alterations to be valid must be for the benefit of the Association as a whole; (2) That no alterations could be made which offended against rules of natural justice or which worked oppression. Here, however, neither limitation was transgressed, but on the contrary, these alterations would be for the benefit, directly or indirectly, of both the retained staff and the transferred staff. The contention that no alteration ought to be permitted which gave rights to persons other than members of the parent company or its "subsidiaries" in the strict sense failed; the provisions of cl. 15 were definitely fatal to such a contention. The final words of cl. 3 ought to be construed as meaning such persons as should, when they retired, be members. There was nothing to preclude an alteration of the definition of members, the definition of that word being neither fundamental nor unalterable. The analogy in company law was rather the alteration of Articles of Association, than Memorandum of Association. An unreported decision of Eve, J., made on the 27th July, 1932, in the case of the *Royal Mail Steam Packet Company Superannuation Association* (which, apparently, dealt with a similar point in relation to Royal Mail Lines Limited the other of the two new operating companies), which had been mentioned to him in the argument would appear to have been on the same lines as the present decision, but he did not in any way base his decision on Eve, J.'s, decision, as he had not sufficient information of the facts in that case. He directed taxation of all parties' costs, and made appropriate representation orders.

COUNSEL: *Sir Herbert Cunliffe*, K.C., and *Hugh Gamon*, for the trustees of the fund; *W. Lyon Blease*, for annuitants; *H. P. Glover*, for retained staff; *E. Ackroyd*, for transferred staff; *H. McMaster*, for staff dismissed before end of 1932; *W. Geddes*, for staff dismissed at end of 1932 and not re-engaged.

SOLICITORS for all parties: *Forwood, Williams and Grindrod*, Liverpool.

[Reported by JOHN J. CLARKE, Esq., Barrister-at-Law.]

GENERAL COUNCIL OF THE BAR.

The annual general meeting of the Bar will be held in the Inner Temple Hall, on Thursday, 18th January, at 4.15 o'clock. The Attorney-General will preside. Any member of the Bar shall be at liberty to bring forward for discussion at the annual general meeting any resolution, provided that notice thereof shall have been given in writing to the Secretary of the Council not less than seven clear days before the day of Meeting, and that in the opinion of the Executive Committee of the Council such resolution is a matter of general interest to the Bar.

Obituary.

HIS HONOUR IVOR BOWEN, K.C.

His Honour Ivor Bowen, K.C., Judge of County Courts on Circuit 28 (Mid-Wales) from 1918 to 1933, died in London on Tuesday, 2nd January, at the age of seventy-one. Called to the Bar by Gray's Inn in 1889, he took silk in 1912 and was made a Bencher the same year. From 1905 to 1912 he was revising barrister on the South Wales Circuit. In 1914 he was appointed Recorder of Merthyr Tydvil, and the following year he became Recorder of Swansea. He vacated that office on being appointed a judge in 1918. Formerly he was a captain in the Territorial Force Reserve.

MR. H. M. GIVEEN.

Mr. Henry Martley Giveen, a former Treasury Counsel, died at his home at Thames Ditton on Saturday, 30th December, at the age of sixty-four. Mr. Giveen was called to the Bar by Lincoln's Inn in 1895, and joined the Staffordshire, Berkshire and Oxford Sessions, and the Oxford Circuit. He became a Bencher of Lincoln's Inn in 1918, and in 1921 he was appointed Junior Counsel to the Treasury. He retired in 1930.

MR. S. B. ATTENBOROUGH.

Mr. Samuel Bernard Attenborough, solicitor, of Sheffield, died on Tuesday, 26th December, at the age of forty-eight. He was admitted a solicitor in 1910. Mr. Attenborough was also interested in the business and industrial life of Sheffield, and some months ago he ceased actively to engage in law and opened an office in the name of Stainless Steel Goods, Limited.

MR. H. F. CUNDALL.

Mr. Horatio Farrer Cundall, solicitor, of York, died at his home at Acaster Malbis on Christmas Day, at the age of seventy-nine. Mr. Cundall, who was admitted a solicitor in 1876, had practised at York for over fifty years.

MR. A. F. GRIFFITH.

Mr. Arthur F. Griffith, M.A., solicitor, of Brighton, died on Saturday, 30th December. Mr. Griffith, who was admitted a solicitor in 1889, had been a member of the Brighton Borough Council for twenty years.

MR. P. L. MARTELL.

Mr. Philip Lewis Martell, retired solicitor, of Swansea, died recently. He was admitted a solicitor in 1886.

Societies.

University of London.

Mr. E. Leslie Burgin, LL.D., M.P., Parliamentary Secretary to the Board of Trade, of the firm of Denton, Hall & Burgin, has accepted the invitation of a number of teachers and graduates to offer himself for election to represent the graduates in Laws on the Senate of the University of London, in succession to the late Judge Bateman Napier. Dr. Burgin has had a very distinguished record as a student, and was at one time Principal of The Law Society's School and President of the Society of Public Teachers of Law.

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room on Friday, 15th December, 1933. The President, Mr. L. Ungoed Thomas, took the chair at 8.20 p.m. In public business Mr. John Wood (G.I.) moved: "Science is more important than art." Mr. Granville Sharp (ex-President M.T.) opposed. There spoke to the motion Mr. Parker, Mr. Vyvyan Adams (ex-President), Mr. Mayers (Hon. Secretary), Mr. Menzies, Mr. Newman Hall (Vice-President), Mr. Sweeney (visitor), Mr. Bailhache, Mr. Douglas, Mr. Stride (Hon. Treasurer), Mr. Petrie, Mr. Grieves and the Hon. Proposer in reply. On a division the motion was lost by seven votes.

Legal Notes and News.

New Year Legal Honours.

BARON.

The Right Hon. Sir EVELYN CECIL, G.B.E., M.P. for East Hertfordshire, 1898-1900; for Aston Manor, 1900-1918; and for the Aston Division, 1918-1929. Chairman or member of many committees and commissions. Called to the Bar by the Inner Temple, 1889. For political and public services.

PRIVY COUNCILLOR.

Sir TEJ BAHADUR SAPRU, K.C.S.I., M.A., LL.D., Advocate of the High Court, Allahabad.

KNIGHTS.

HARRY COUSINS, Esq., J.P. Registrar of the County Court of Cardiff and Barry and of the District Registry of the High Court at Cardiff. Admitted a solicitor, 1874.

CHARLES EDWARD FITZ ROY, Esq., Solicitor to the Board of Customs and Excise.

WILLIAM CAMPBELL JOHNSTON, Esq., W.S., LL.D., J.P., Deputy-Keeper of the Signet.

Lieutenant-Colonel RUSSELL JAMES KERR, J.P., D.L., Chairman Gloucester Quarter Sessions and a former Chairman Gloucestershire County Council. Called to the Bar by the Inner Temple, 1887. For public services.

The Hon. LANGER MEADE LOFTUS OWEN, C.B.E., K.C., formerly Justice of the Supreme Court, New South Wales; lately Royal Commissioner in Inquiry into Performing Rights in the Commonwealth of Australia.

The Hon. JOSEPH MATHIAS TELLIER, Chief Justice of the Province of Quebec, Dominion of Canada.

ROBERT WILLIAM LYALL GRANT, Esq., LL.B., Chief Justice, Jamaica.

WILLIAM THOMAS WEBB BAKER, Esq., Indian Civil Service, lately Puisne Judge of the High Court of Judicature at Bombay.

RAO BAHADUR, Mr. Justice CHITTOOR VAITHILINGA AYYAR AVARGAL ANANTAKRISHNA AYYAR, Puisne Judge of the High Court of Judicature at Fort St. George, Madras.

JEHANGIR BOMONJI BOMON-BEHRAM, Esq., Solicitor, Bombay.

ORDER OF ST. MICHAEL AND ST. GEORGE.

G.C.M.G.

The Right Hon. LYMAN POORE DUFF, LL.D., Chief Justice of Canada.

C.M.G.

ARTHUR BEAUCHESNE, Esq., K.C., LL.D., Clerk of the House of Commons, Dominion of Canada.

THOMAS MULVEY, Esq., K.C., lately Under-Secretary of State and Deputy Registrar-General, Dominion of Canada.

ORDER OF THE STAR OF INDIA.

K.C.S.I.

Sir EDWARD MAYNARD DESCHAMPS CHAMIER, K.C.I.E., lately Legal Adviser and Solicitor to the Secretary of State for India.

ORDER OF THE INDIAN EMPIRE.

C.I.E.

BENEGAL NARSINGA RAU, Esq., Indian Civil Service, Secretary, Legislative Department, Superintendent and Remembrancer of Legal Affairs, Administrator-General and Official Trustee, Assam.

ORDER OF THE BRITISH EMPIRE.

C.B.E.

ARTHUR JOHN LEES, Esq., Secretary of the Urban District Councils Association. Admitted a solicitor, 1890.

WILLIAM HENRY BLYTH MARTIN, Esq., J.P., D.L., Town Clerk of Dundee.

O.B.E.

CHRISTOPHER JOHNSTON BISSET, Esq., Sheriff Clerk of the Sheriffdom of Forfar.

Alderman GEORGE BERTIE BROOKS, Chairman of the Paddington and St. Marylebone War Pensions Committee. Admitted a solicitor, 1901.

RICHARD HARRY RIDING TEE, Esq., LL.D., Town Clerk of the Borough of Hackney. Admitted a solicitor, 1913.

ARTHUR OWEN THOMAS, Esq., First Class Clerk, Central Office, Supreme Court of Judicature.

Honours and Appointments.

The King has been pleased to approve the appointment of The Right Hon. Sir LANCELOT SANDERSON, K.C., to be a Member of the Judicial Committee of the Privy Council under the Appellate Jurisdiction Act, 1929, in the place of The Right Hon. Sir George Rivers Lowndes, K.C.S.I., K.C., who has retired.

The King has been pleased to approve a recommendation of the Home Secretary that Sir GERVAIS RENTOUL, K.C., M.P., and Mr. GEOFFREY KEITH ROSE be appointed Metropolitan Police Magistrates to fill the vacancies caused by the death of Mr. J. A. R. Cairns and the retirement of Mr. Frederick Mead. Sir Gervais Rentoul was called to the Bar by Gray's Inn in 1907, and took silk in 1930. He was appointed Recorder of Sandwich in 1929. Mr. Geoffrey Keith Rose, who was called to the Bar by the Inner Temple in 1913, was appointed Recorder of Ludlow in 1932.

Sir ALISON RUSSELL, K.C., late Chief Justice of Tanganyika, has taken over the duties of Legal Adviser to the Governor of Malta in succession to Mr. R. Strother-Stewart.

Mr. E. R. SYKES, barrister-at-law, formerly on the Western Circuit, has been appointed Chairman of the Dorset Quarter Sessions in succession to Colonel T. A. Colfox, who has resigned.

Mr. E. S. HOLCROFT, solicitor, the new Clerk to the Essex County Council, has been appointed Clerk of the Peace for Essex, in succession to Mr. J. H. Goold, who retires in March after holding the clerkship for over twenty-five years.

Professional Announcements.

(2s. per line.)

HOWES, PERCIVAL & Budge, Northampton and Towcester, have taken into partnership as from the 1st January, 1934, JOHN WILLIAM PERCIVAL. The name of the firm remains unchanged.

The practice formerly carried on at Boston, Lincolnshire, by the late Mr. A. COOKE-YARBOROUGH has been acquired by Mr. G. H. SWANN, solicitor, of Sheffield, and will be carried on by him at the same address under the style of "Cooke-Yarborough & Swann." Mr. Swann will also continue to practise at Sheffield, Rotherham and Hoyland as heretofore.

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS, or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

VALUATION OF LAND FOR DEATH DUTIES IN MALAYA.

It is mentioned in the annual report on the office of the Commissioner of Lands, Straits Settlements, that it is the practice of the Commissioner of Estate Duties to refer to the Land Office all valuations of Singapore lands submitted to him in connection with payment of death duties. Valuations in 1932 amounted to $5,162,070, as compared with $24,072,161 in the previous year, but the 1931 valuations included two estates which alone amounted to about $15,000,000.

RESIGNATION OF COUNTY COURT JUDGE.

The Lord Chancellor has received the resignation, owing to continued ill-health, of His Honour Judge Eustace Hills, K.C., Judge of County Courts Circuit 3 (Cumberland and Westmorland). Judge Hills, who was appointed in 1929, was educated at Eton and Balliol College, Oxford, and was called to the Bar by the Inner Temple in 1894, and joined the Northern Circuit. He took silk in 1919.

RETIREMENT OF MR. MEAD.

It was recently announced by the Home Office that Mr. Frederick Mead, Metropolitan Police Magistrate, has resigned, as from Wednesday, 27th December, 1933. Mr. Mead, who is in his eighty-seventh year, was called to the Bar by the Middle Temple in 1869, and was appointed a Metropolitan Police Magistrate in 1889. He has sat at Marlborough-street since 1907.

LEGAL & GENERAL ASSURANCE SOCIETY LIMITED.

The Directors of the Legal & General Assurance Society Limited have appointed Mr. H. E. Watts assistant manager at the Society's Liverpool branch. Mr. Watts joined the Society's Bristol branch in 1922 as inspector of agents.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 11th January, 1934.

	Div. Months.	Middle Price 4 Jan. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109¾xd	3 12 11	3 7 8
Consols 2½%	JAJO	74¼	3 7 4	—
War Loan 3½% 1952 or after	JD	101½	3 9 0	3 7 10
Funding 4% Loan 1960-90	MN	112½	3 11 1	3 5 7
Victory 4% Loan Av. life 29 years	MS	111¼	3 11 11	3 7 9
Conversion 5% Loan 1944-64	MN	116½	4 5 10	3 1 2
Conversion 4½% Loan 1940-44	JJ	108¾	4 2 9	3 19 10
Conversion 3½% Loan 1961 or after	AO	102¼	3 8 6	3 7 5
Conversion 3% Loan 1948-53	MS	98¾	3 0 9	3 1 9
Conversion 2½% Loan 1944-49	AO	92½	2 14 1	3 2 9
Local Loans 3% Stock 1912 or after	JAJO	87¼	3 8 9	—
Bank Stock	AO	347½	3 9 1	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	78	3 10 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	86	3 9 9	—
India 4½% 1950-55	MN	108	4 3 4	3 16 6
India 3½% 1931 or after	JAJO	88	3 19 7	—
India 3% 1948 or after	JAJO	75	4 0 0	—
Sudan 4½% 1939-73	FA	111xd	4 1 1	2 3 2
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Tanganyika 4% Guaranteed 1951-71	FA	108½xd	3 13 9	3 6 9
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	—
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109½	4 2 2	3 4 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	104	3 16 11	3 14 6
*Australia (Commonw'th) 3¾% 1948-53	JD	100	3 15 0	3 15 0
Canada 4% 1953-58	MS	105	3 16 2	3 12 10
Natal 3% 1929-49	JJ	95	3 3 2	3 8 8
New South Wales 3½% 1930-50	JJ	96	3 12 11	3 16 10
New Zealand 3% 1945	AO	95	3 3 2	3 11 2
Nigeria 4% 1963	AO	106	3 15 6	3 13 4
Queensland 3½% 1950-70	JJ	95	3 13 8	3 15 2
South Africa 3½% 1953-73	JD	99	3 10 8	3 10 11
Victoria 3½% 1929-49	AO	97	3 12 2	3 15 0
W. Australia 3½% 1935-55	AO	97	3 12 2	3 14 1
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	85	3 10 7	—
Croydon 3% 1940-60	AO	94	3 3 10	3 7 1
Essex County 3½% 1952-72	JD	102	3 8 8	3 7 2
Hull 3½% 1925-55	FA	98xd	3 11 5	3 12 8
Leeds 3% 1927 or after	JJ	85	3 10 7	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86½	3 9 4	—
Manchester 3% 1941 or after	FA	85xd	3 10 7	—
Metropolitan Consd. 2½% 1920-49	MJSD	92½	2 14 1	3 2 1
Metropolitan Water Board 3% "A" 1963-2003	AO	88	3 8 2	3 9 2
Do. do. 3% "B" 1934-2003	MS	89½	3 7 0	3 7 11
Do. do. 3% "E" 1953-73	JJ	95xd	3 3 2	3 4 6
Middlesex County Council 4% 1952-72	MN	109	3 13 5	3 7 0
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 5
Nottingham 3% Irredeemable	MN	86	3 9 9	—
Sheffield Corp. 3½% 1968	JJ	99½xd	3 10 4	3 10 6
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	108½	3 13 9	—
Gt. Western Rly. 4½% Debenture	JJ	116½	3 17 3	—
Gt. Western Rly. 5% Debenture	JJ	129½	3 17 3	—
Gt. Western Rly. 5% Rent Charge	FA	125½	3 19 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	122½	4 1 8	—
Gt. Western Rly. 5% Preference	MA	111	4 10 1	—
Southern Rly. 4% Debenture	JJ	107xd	3 14 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½xd	3 15 1	3 12 6
Southern Rly. 5% Guaranteed	MA	121½	4 2 4	—
Southern Rly. 5% Preference	MA	109	4 11 9	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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